

Appl. No. 09/745,751  
Amdt. dated September 30, 2003  
Reply to Office action of July 3, 2003

### **REMARKS/ARGUMENTS**

Reconsideration of the subject application as amended herein is respectfully requested.

The claims have been amended as requested by the Examiner.

The claims were rejected as being anticipated by Smith et al. The Smith patent issued on July 10, 2001, based on an application filed on October 4, 1999. The subject application claims priority to application S.N. 60/173,374 filed December 28, 1999. In response, attached hereto is a declaration by inventor Hochman evidencing that he has invented the subject matter of the present application in this country prior to October 4, 1999, and therefore the Smith patent is not prior art to the present invention under 35 U.S.C. 102 (a).

The claims were further rejected as being anticipated by or obvious over Brown. The Applicant respectfully traverses these rejections. Brown discloses an injection syringe which is advanced into a predetermined position and then two drugs are released in sequence while the needle is turning about its axis thereby forming either a sphere, as seen in Figs. 2 and 3 or two joined spherical portions as seen in Fig. 4 (See also Col. 1, lines 43-52). It is clear from the specification and from these drawings that the needle is only rotated only after it has reached the injection site. Therefore the needle is clearly not simultaneously translated and rotated.

The examiner's position that "Brown discloses that it is well known to twist or turn a needle of a syringe while inserting it through the tissue" is incorrect. Brown


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merely mentions that "the usual procedure is to insert the needle by a sharp jab or pushing action. Pressure is exerted to the plunger of the syringe to inject the contents. At times, a turning or twisting action may be employed to cause the needle to enter the tissue more easily or more easily affect removal." (Col. 1, lines 16-22). This passage indicates that the rotation is performed either when the needle is to enter the tissue or when it is to be removed from the tissue. There is nothing in this passage to indicate that it is known in the prior art to rotate and translate the needle simultaneously. Certainly it is impossible to jab a needle and rotate it simultaneously.

The claims were further rejected in view of Garnier. This patent shows a complicated mechanism for rotating a needle about a longitudinal axis. However there is nothing in this reference about translating the needle simultaneously as it is being rotated.

Respectfully submitted,

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